

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK SMITH,

Plaintiff,

v.

CALPIA, *et al.*,

Defendants.

Case No. 2:24-cv-0117-KJM-JDP (P)

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 30, 2025, the magistrate judge filed findings and recommendations, which were served on plaintiff, and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis. As the Magistrate Judge correctly explained,

1 allegations of mere negligence fundamentally cannot support a claim of due process violations or  
2 cruel and unusual punishments under 42 U.S.C. § 1983. *See, e.g., Farmer v. Brennan*, 511 U.S.  
3 825, 835 (1994); *Davidson v. Cannon*, 474 U.S. 344, 347–48 (1986).

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The findings and recommendations filed July 30, 2025, are adopted in full;
- 6 2. The third amended complaint, ECF No. 27, is DISMISSED without leave to amend  
7 and for failure to state a cognizable claim; and
- 8 3. The Clerk of Court is directed to close this action.

9 DATED: October 28, 2025.

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12 UNITED STATES DISTRICT JUDGE  
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